

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 20-1973**

\*\*\*\*\*

YOLANDA MARIE MARTINEZ,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

\*\*\*\*\*

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

UNPUBLISHED

Filed: August 16, 2024

*Laura Levenberg*, Muller Brazil, Dresher, PA, for Petitioner  
*Alec Saxe*, U.S. Department of Justice, Washington, DC, for Respondent

**DECISION ON JOINT STIPULATION<sup>1</sup>**

On December 28, 2020, Yolanda Marie Martinez (“Petitioner”) filed a petition, seeking compensation under the National Vaccine Injury Compensation Program (“the Vaccine Program”).<sup>2</sup> Pet., ECF No. 1. Petitioner alleges she suffered from Guillain-Barré Syndrome (“GBS”) and/or Chronic Inflammatory Demyelinating Polyneuropathy (“CIDP”) as a result of the tetanus, diphtheria, and acellular-pertussis (“Tdap”) vaccination she received on January 11, 2018. See Stipulation ¶ 2, 4, dated July 30, 2024 (ECF No. 52); *see also* Pet.

Respondent denies “that the Tdap vaccine caused petitioner to suffer from GBS or CIDP,

---

<sup>1</sup> Although this Decision has been formally designated “not to be published,” it will nevertheless be posted on the Court of Federal Claims’ website in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). **This means the Decision will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the Decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the Decision in its present form will be available. *Id.*

<sup>2</sup> The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755 (codified as amended at 42 U.S.C. §§ 300aa-10–34 (2012)) (hereinafter “Vaccine Act” or “the Act”). All subsequent references to sections of the Vaccine Act shall be to the pertinent subparagraph of 42 U.S.C. § 300aa.

or any other injury or her current condition.” See Stipulation ¶ 6. Nonetheless, both parties, while maintaining their above-stated positions, agreed, in a stipulation filed July 30, 2024, that the issues before them can be settled and that a decision should be entered awarding Petitioner compensation.

I have reviewed the file, and based upon that review, I conclude that the parties’ stipulation is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.<sup>3</sup>

The stipulation awards:

a lump sum of \$95,000.00 in the form of a check payable to Petitioner;

a lump sum payment of \$50,000.00, which represents reimbursement of a lien for services rendered on behalf of Petitioner by the Colorado Department of Health Care Policy & Financing, in the form of a check payable jointly to Petitioner and:

Colorado Department of Health Care Policy and Financing  
Tort and Casualty Recovery Program  
1570 Grant Street  
Denver, CO 80203  
Medicaid State I.D. No: J230290  
Attn: Erika Herrera

Petitioner agrees to endorse this check to the Colorado Department of Health Care Policy and Financing.

Stipulation ¶ 8. This award represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court is directed to enter judgment herewith.<sup>4</sup>

**IT IS SO ORDERED.**

**s/ Jennifer A. Shah**  
Jennifer A. Shah  
Special Master

---

<sup>3</sup> Petitioner electronically signed the stipulation using VineSign. Pursuant to OSM policy as of December 6, 2023, the last page of the stipulation containing Petitioner’s email address, phone number, and IP address has been removed prior to filing to avoid unnecessary disclosure of Petitioner’s personal information.

<sup>4</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by jointly filing notice renouncing their right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS

YOLANDA MARIE MARTINEZ,	)	
	)	
Petitioner,	)	
v.	)	
	)	No. 20-1973V
SECRETARY OF HEALTH	)	Special Master Oler
AND HUMAN SERVICES,	)	ECF
	)	
Respondent.	)	
	)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Yolanda Marie Martinez, petitioner, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to -34 (the “Vaccine Program”). The petition seeks compensation for injuries allegedly related to petitioner’s receipt of a tetanus, diphtheria, and acellular-pertussis vaccine (“Tdap”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3 (a).
2. Petitioner received her Tdap vaccination on January 11, 2018.
3. The vaccination was administered within the United States.
4. Petitioner alleges that she suffered from Guillain-Barre Syndrome (“GBS”) and/or Chronic Inflammatory Demyelinating Polyneuropathy (“CIDP”) that was caused-in-fact by the Tdap vaccine. Petitioner further alleges that petitioner suffered the residual effects of the alleged injury for more than six months.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on her behalf as a result of the alleged injury.

6. Respondent denies that the Tdap vaccine caused petitioner to suffer from GBS or CIDP, or any other injury or her current condition.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payments:

- a. A lump sum of \$95,000.00 in the form of a check payable to petitioner;
- b. A lump sum payment of \$50,000.00,<sup>1</sup> which amount represents reimbursement of a lien for services rendered on behalf of petitioner by the Colorado Department of Health Care Policy & Financing, in the form of a check payable jointly to petitioner and:

Colorado Department of Health Care Policy and Financing  
Tort and Casualty Recovery Program  
1570 Grant Street  
Denver, CO 80203  
Medicaid State I.D. No: J230290  
Attn: Erika Herrera

Petitioner agrees to endorse this check to the Colorado Department of Health Care Policy and Financing.

These amounts represent compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

---

<sup>1</sup> This amount represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Colorado may have against any individual as a result of any Medicaid payments the Colorado State Program has made to or on behalf of Yolanda Marie Martinez as a result of her alleged vaccine-related injury following the Tdap vaccine administered on January 11, 2018, under Title XIX of the Social Security Act, see 42 U.S.C. § 300aa-15(g), (h).



9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Petitioner and her attorney represent that they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), including State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or entities that provide health services on a pre-paid basis.

11. Payments made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, and past unreimbursable expenses, the money provided pursuant to this Stipulation either immediately or as part of the annuity contract, will be used solely for petitioner's benefit as contemplated by a strict construction of 42 U.S.C. §§ 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. §§ 300aa-15(g) and (h).

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and on behalf of her heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands

of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the Tdap vaccination administered on January 11, 2018, as alleged by petitioner in a petition for vaccine compensation filed on or about December 28, 2020, in the United States Court of Federal Claims as petition No. 20-1973V.

14. If petitioner should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

15. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be voidable at the sole discretion of either party.

16. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

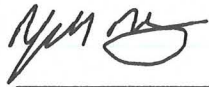
17. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the Tdap vaccine caused petitioner's alleged GBS or CIDP or any other injury or her current condition.

18. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns.

**END OF STIPULATION**

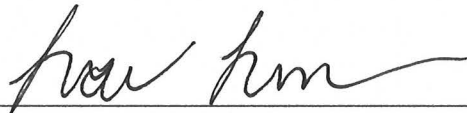
Respectfully submitted,

**PETITIONER:**



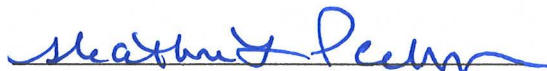
YOLANDA MARIE MARTINEZ

**ATTORNEY OF RECORD FOR  
PETITIONER:**



LAURA LEVENBERG  
MULLER BRAZIL, LLP  
715 Twining Road, Suite 208  
Dresher, PA 19025  
Tel: (215) 885-1655  
Email: laura@mullerbrazil.com

**AUTHORIZED REPRESENTATIVE  
OF THE ATTORNEY GENERAL:**



HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146

**AUTHORIZED REPRESENTATIVE  
OF THE SECRETARY OF HEALTH  
AND HUMAN SERVICES:**

Jeffrey S.  
Beach -S

Digitally signed by  
Jeffrey S. Beach -S  
Date: 2024.07.16  
13:25:14 -04'00'

for

CAPT GEORGE REED GRIMES, MD, MPH  
Director, Division of Injury  
Compensation Programs  
Health Systems Bureau  
Health Resources and Services  
Administration  
U.S. Department of Health  
and Human Services  
5600 Fishers Lane, 08W-25A  
Rockville, MD 20857

Dated: July 30, 2024

**ATTORNEY OF RECORD FOR  
RESPONDENT:**



ALEC SAXE  
Trial Attorney  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146  
Tel: (202) 353-7722  
Email: alec.saxe@usdoj.gov